

STATE OF MICHIGAN  
COURT OF APPEALS

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DONALD W. BRAY,

Plaintiff-Appellee,

v

SHANNON BRAY,

Defendant-Appellant.

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UNPUBLISHED

May 19, 2015

No. 324402

Marquette Circuit Court

Family Division

LC No. 05-042800-DM

Before: DONOFRIO, P.J., and O'CONNELL and RONAYNE KRAUSE, JJ.

PER CURIAM.

Defendant, Shannon Bray, appeals as of right the trial court's order denying her motion to change physical custody of the parties' children from plaintiff, Donald W. Bray. We affirm.

I. FACTS AND PROCEDURAL HISTORY

The parties divorced in February 2006. The trial court granted Donald custody of the parties' three minor children. The parties have since filed several motions to change parenting time. Shannon has alleged that the children want to see her more and that Donald treats the children poorly; Donald has alleged that Shannon harasses him with repeated, unsubstantiated "well-child checks" and unfounded allegations of abuse.

In July 2014, Shannon moved the trial court for a change of custody. Shannon alleged that the younger children's preference to live with her, the addition of Donald's fiancée to the family home, Donald's drinking and smoking, and his emotional and physical abuse of the children constituted changed circumstances. Donald responded that the children are well-adjusted and happy, he was now married, he only drinks socially on weekends, he smokes outside the house, and that Children's Protective Services found that one incident was an accident and declined to open a case regarding the second incident.

The trial court found that, even assuming that Shannon's allegations were true, the children's preferences, addition of a step-parent, and incidental smoking and alcohol use did not constitute proper cause or a change of circumstances to warrant revisiting the children's custody arrangement. It also found that the incidents with the children did not constitute acts of physical abuse and did not provide a basis to change the children's custody. The trial court determined that a full evidentiary hearing was not necessary. Shannon now appeals.

## II. ANALYSIS

Shannon contends that the trial court erred when it found that her allegations did not constitute a proper cause or a change of circumstances. We disagree.

To minimize unwarranted and disruptive changes in children's custody, a trial court may only modify children's custody if the moving party first establishes a proper cause or a change of circumstances. *Corporan v Henton*, 282 Mich App 599, 603; 766 NW2d 903 (2009). "This Court reviews a trial court's determination regarding whether a party has demonstrated a proper cause or a change of circumstances under the great weight of the evidence standard." *Id.* at 605. Under this standard, we must defer to the trial court's findings regarding the existence of a proper cause or change of circumstances unless the evidence clearly preponderates in the other direction. *Id.* We review de novo the trial court's determinations on questions of law. *Id.*

A proper cause to modify a child's custody exists if there are "one or more appropriate grounds that have or could have a significant effect on the child's life to the extent that a reevaluation of the child's custodial situation should be undertaken." *Vodvarka v Grasmeyer*, 259 Mich App 499, 511; 675 NW2d 847 (2003). The trial court may consider the best-interest factors when making this determination. *Id.* at 511-512. But any ground "must be of a magnitude to have a significant effect on the child's well-being[.]" *Id.* at 512.

A change of circumstances exists when the movant proves that "since the entry of the last custody order, the conditions surrounding custody of the child, which have or could have a *significant* effect on the child's well-being, have materially changed." *Id.* at 513. Normal life changes, whether positive or negative, do not constitute a change of circumstances. *Id.* The changes must be "material changes [that] have had or will almost certainly have an effect on the child." *Id.* at 513-514.

We also conclude that Shannon did not show a proper cause or a change of circumstances to warrant changing the children's custody. There was no indication that Shannon's allegations of smoking, alcohol use, and physical abuse were any different from circumstances present during the last custody order. Further, the addition of a step-parent into the children's home, without evidence that the relationship had an effect on the children's lives, does not constitute a material change in circumstances. See *Brausch v Brausch*, 283 Mich App 339, 358; 770 NW2d 77 (2009) (affirming the trial court's finding that circumstances did not change where there was no showing the significant change would have an effect on the life of the child). Shannon entirely failed to present evidence that any circumstance she alleged would have a significant effect on the children's well-being. In sum, the record does not clearly preponderate against the trial court's findings.

We affirm.

/s/ Pat M. Donofrio  
/s/ Peter D. O'Connell  
/s/ Amy Ronayne Krause